

Quarterly Report

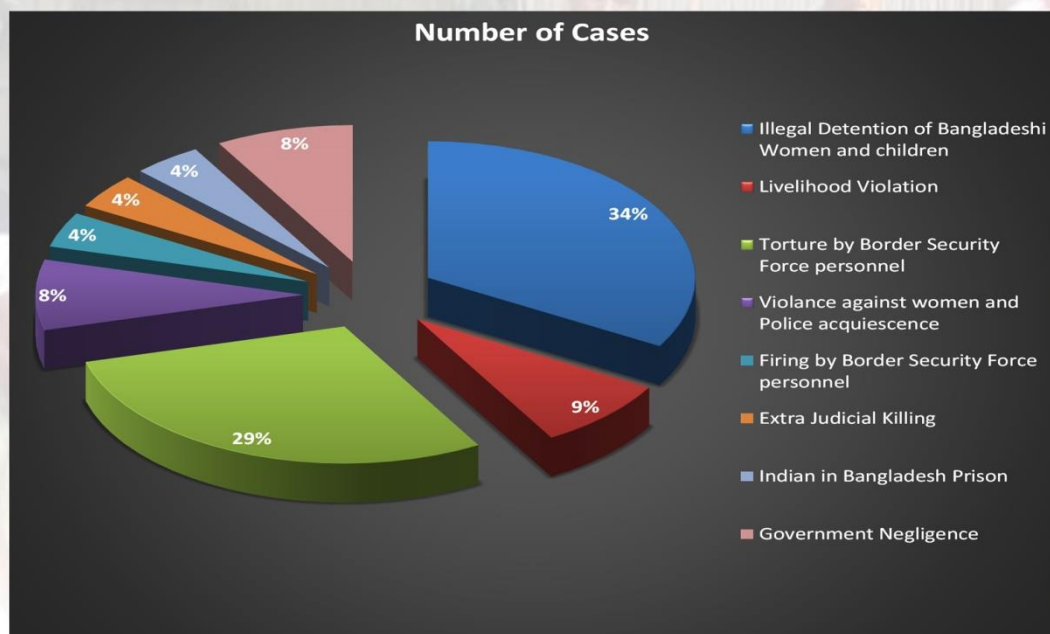
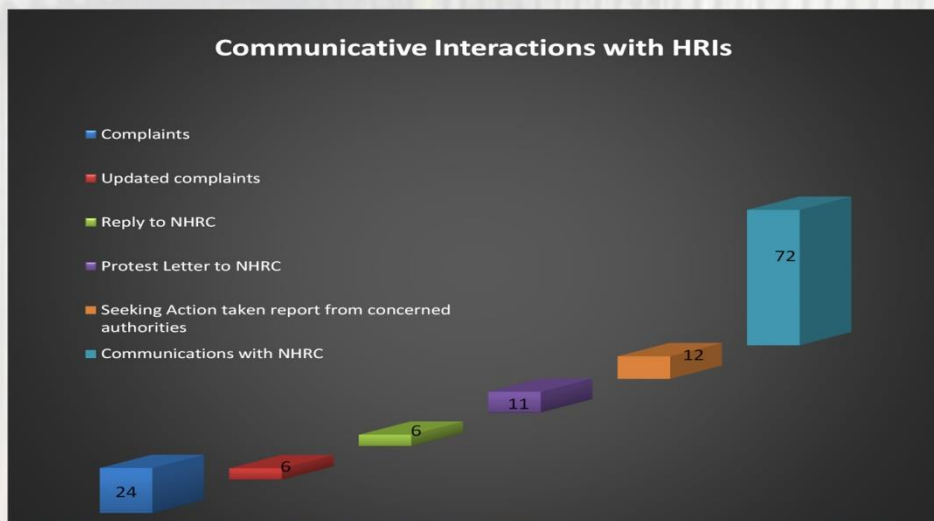
March 2021

Miles to go...

Banglar Manabadhikar
Suraksha Mancha

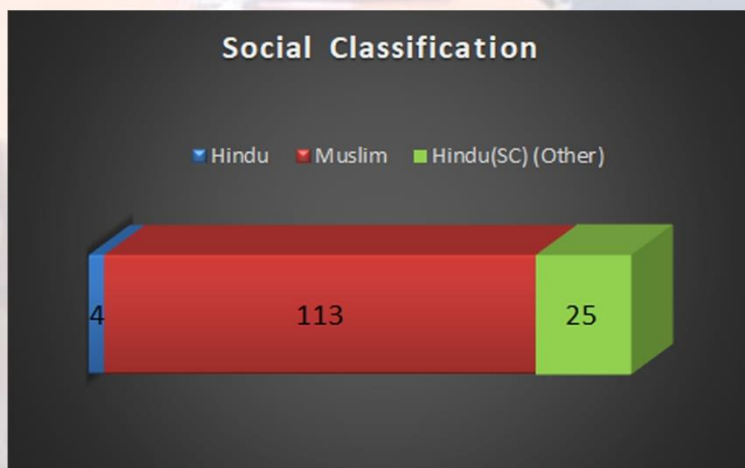
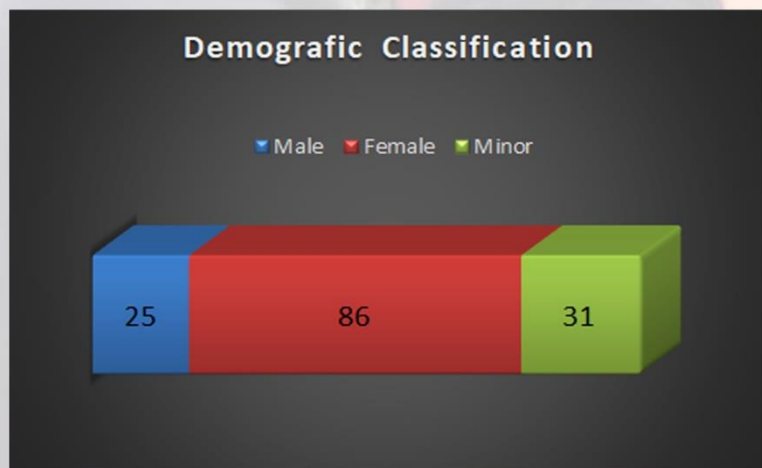


Banglar Manabdhikar Suraksha Mancha (MASUM) made 24 fresh complaints and 6 updated complaints of gross human rights violation before the relevant state authorities and different human rights institutions; especially the National Human Rights Commission during the first quarter of 2021. We made 6 replies in cases where the NHRC asked our comments. We have sent 11 protest letters to the concerned authorities, where they have closed a case or sent overdated summons to our victims. We have asked for action taken report from the concerned authorities in 12 cases where the NHRC have asked them to take necessary action and disposed of the case. During these three months, we received directions from the NHRC in 72 cases.



Out of the 24 fresh complaints, eight are on illegal detention of Bangladeshi women and children and seven on torture by BSF personnel. During this quarter two complaints were made each on government negligence, issues of livelihood violation and incidents of violence against women and police acquiescence. One complaint was made each on the issues of extra-judicial killing, firing by the Border Security Force personnel and Indian in Bangladeshi prison.

Through these complaints during the first quarter of 2021, we have addressed the issues of 142 individual victims. Among them 113 belonged from the minority Muslim community, 25 from Hindu Scheduled Caste (*Dalit*) community and 4 from Hindu (General category) community. Among these victims we supported, 25 were males and 86 were females and 31 is minor. In the complaints regarding livelihood violation and government negligence the victimization was collective and does not reflect in the demographic and social classification of victims.



“I will never stop fighting”

An interview with Shila Bewa - victim, survivor and Human Rights Defender



30-year old Shila Bewa, belonging from a remote village of Jalangi in Murshidabad district, has set a standard for survivors of violence by putting up a steady and consistent battle against the state agencies, who were responsible for the extra-judicial execution of her husband, Imajuddin in 2015. After a prolonged legal and social fight for almost 6 years, Shila was awarded monetary compensation of 3 lakhs INR by the State Legal Services Authority, West Bengal in 2021. She is also working as a human rights defender with MASUM . The story of her intense fight was revealed in her extensive dialogue with MASUM, which is presented here.

MASUM: How was your life before the extra-judicial execution of your husband, Imajuddin Sheikh in 2015?

Shila: I got married to Imajuddin in 2009. My family was poor as the sole bread earner of the family was my husband, who was a migrant labourer. Though we struggled to make ends meet, our life was peaceful. After our marriage two kids were born. We had no lands; hence after returning from Kerela, my husband started constructing a house by the banks of the river in Taltali village.

MASUM: What happened on the day your husband was killed?

Shila: The date of the incident was 17th April, 2015. As we had no toilet facilities in our house, we had to defecate in the open. The male members of the family went towards the river banks, while the female members had an old toilet facility in the neighborhood. On that day at around 4:00 am my husband went out to attend nature's call by the river banks. We heard that some cross border smuggling activity was going on nearby and the BSF personnel posted there were involved in a brawl with the smugglers. Soon the news came to me that my husband was shot twice in the back by the BSF when he was returning from the river banks after attending nature's call. The villagers who woke up early for their 'Namaz' (morning prayers) near the river banks heard a sound of growling and rushed towards the sound to discover my husband, Imajuddin laying on the ground with bullet injury. They took him to the hospital at Domkal but the doctor declared him dead. As they brought him to our house we found out that he was unconscious from the blood loss but not dead yet. I cried and told others that there is still life in him and urged them to take him to the doctor. They took him to the doctor again but on the way he succumbed to his injuries.

MASUM: What did you do after the death of your husband?

Shila: I was completely broken after the incident but wanted justice for my husband's death. I started a legal fight so that the guilty BSF personnel are punished. I came in contact with MASUM, who supported me throughout the legal proceedings. I didn't get support from my fellow villagers. My parents helped me to sustain my living along with two kids though they also belong from poor economic backgrounds. There was tremendous pressure from the BSF and Jalangi police to withdraw the case but I refused to fall back. I clearly stated that I will not give in to the pressure of the state forces but want to see the guilty BSF personnel punished for their crimes. They asked me to withdraw my case in exchange of a widow pension and a house from the government schemes. But I refused even then. I said to the Prodhan, the SDPO and the Officer-in-Charge of the Jalangi police station that as I am a widow now, I am eligible for a widow pension by default but if I had to withdraw the case for getting a pension, I don't want that. I want justice for my husband's death and I will fight for that even if it takes a whole lifetime.

MASUM: Are you satisfied with the compensation?

Shila: I lodged a complaint to the State Legal Services Authority, West Bengal in 2019. They called me for investigation in front of a board and following that informed me that a compensation of rupees 3 lakhs will be provided to me. On 17th March, 2021 the compensation was deposited in my bank account. However, I am not satisfied with the monetary compensation rather I want justice for my husband's death. No amount of monetary compensation will bring back my husband who was shot by the BSF for no reason. I want the guilty BSF personnel to be punished under law and I will keep fighting for the same until the last day of my life.

The murder of Prasanta Das and possibilities of justice

On 16 May 2015, 25-year old Prashanta Das was shot dead by the police personnel of North 24 Parganas. Decades ago, his father Narayana Das had migrated to the district from Murshidabad in search of a better life for his family. He started working as a mason and his only son, Prashanta assisted him when he was older.



On the day of the incident, Prashanta Das was attending a religious function with his friends. They were returning in a vehicle when they found some police personnel checking the licenses of drivers and vehicles. Since they did not have a license and were also driving drunk, they tried to flee the scene. The police personnel chased them, and opened fire on the people. A bullet hit Prashanta's back and he collapsed. The police abandoned him and fled the scene. He was brought to the hospital much later, and was declared dead.

Protests were staged in front of the police station after this atrocious incident. Promises were made to suspend the concerned police officials and conduct a thorough investigation of the crime. Meanwhile, the police and members of certain political parties started threatening and intimidating the Prashanta's family, forcing them to declare Prashanta an anti-social element of the community. Prashanta's mother, Saraswati Das was denied benefits under the National Family Benefit Scheme because her family had lodged complaints against the police.

In 2016, Saraswati Das applied for the victim compensation scheme and submitted requisite documents to the Sub-Divisional Officer of Barrackpore. However, no relief was provided to the family for the loss of their son. In 2016, we also filed a writ petition in the Calcutta High Court to seek justice for Prashanta. The Court had recommended the Crime Investigation Department, West Bengal to look into the allegations and submit their report to the lower court. Till date, the judgement in this matter is pending.



In December 2020, the National Human Rights Commission finally recommended a monetary compensation of 300,000 INR to be paid to Prashanta's family. In March 2021, the family received this amount. It is by no means a marker of justice because no accountability has been taken for arbitrary shooting by the police. But it is still an important acceptance of the fact that injustice was done, a life was lost, and reparations from the State are absolutely necessary.

Since our inception, we have documented many incidents of extrajudicial executions. It is extremely unfortunate that even monetary compensation is granted by the State in a select few incidents, after a long struggle. Due to the entrenched impunity in our criminal justice system, no public official has been prosecuted for arbitrarily killing citizens. Prashanta Das's case represents the violence faced by the marginalized sections of our society and the resilience displayed by them in the face of atrocities. We stand in solidarity with our citizens and take a solemn oath to condemn violations of human rights in any form while striving for the time where State agents are held accountable for their actions.

Our Activities



During the last quarter, Banglar Manabadhikar Suraksha Mancha (MASUM) organized various activities in three Indo-Bangladesh border districts namely Cooch Behar, North 24 Paganas and Murshidabad. MASUM held these activities with the help of newly formed organizations of the border populace "Amra Simantabasi" and of the erstwhile enclave dwellers "Amra Chitmoholbasi". In last three months, MASUM and "Amra Simantabasi" organized 49 meetings with the border populace in the three districts. With the help of "Amra Chitmoholbasi", MASUM organized 10 meetings with the erstwhile enclave dwellers. MASUM also organized one meeting with other NGO and CBOs, two mass deputations to the District magistrate and one press conference.

These activities were organized for various purposes. Firstly, through the village level meetings MASUM is trying to make people aware of the fundamental rights guaranteed to them through the Constitution of India and how they are restricted by the Government machineries. Through these meetings, MASUM also consulted with the villagers about the remedies for their problems. Secondly, MASUM is trying to unite the



affected villagers and the erstwhile enclave dwellers on their own issues. For this reason two organizations were formed, namely "Amra Simantabasi" (We, the bordering populace) and "Amra Chitmoholbasi" (We, the enclave dwellers). MASUM shall try to help these organizations to continue their protest until the demands are fulfilled.



From the activities of the past three months, MASUM observed some positive and negative outcomes from the affected villagers and erstwhile enclave dwellers. In the positive aspects, we can proudly say that after regular intervention, "Amra Chitmoholbasi" organization has now taken concrete shape. On 13 January 2021, at least 1000 erstwhile enclave dwellers unitedly raised their voices for their demands in front of the office of District Magistrate. Now they are capable of taking on this fight and continuing their protests. In Indo- Bangladesh border villages also, MASUM received some positive responses. MASUM reached many new border villages in the last three months.

With respect to negative outcomes, the people from border villages are still under threat. If any villager raises their voice against the torture by BSF then they are targeted by those BSF personnel and face illegitimate restrictions, threats of fabrication in false cases and threats of being killed. MASUM has complained about these incidents to local authorities a number of times but they have not taken any steps for the protection of the victims. In the last three months, MASUM observed that illegitimate and unethical restrictions on villagers by



central force personnel and district administration are also aided by the imposition of Section 144 CrPC year after year, which is illegal according to the Supreme Court of India. Apart from this, the poor villagers faced continuous restrictions on their movement, cultivation, fishing and other livelihood needs. As a result of a number of sittings with the villagers of Indo- Bangladesh border villages during the last quarter, they have now started to understand their rights and how they will demand for them.



In case of erstwhile enclaves, the scenario is more complicated. After five and a half years of Land Boundary Agreement (LBA), the erstwhile enclave dwellers are still denied from their citizenship, land rights, and other social security schemes. In last three months they organized many activities under the banner of "Amra Chitmoholbasi" to create pressure upon the government. They will continue their protest until their demands will be fulfilled.

During the first quarter of 2021, MASUM has conducted 6 medical camps in the districts of Cooch Behar and North 24 Paganas for providing medical, pathological and psychological support to the victims of torture and their family members. 211 units of medical assistance was provided through these camps. The victims were treated by Dr. Champak Banerjee and Dr. Anasuyak Roy in Cooch Behar and North 24 Paganas respectively. Psychological counselor, Mr. Mohit Ranadip was also present in these camps to look after their mental health.

Demands for the border villagers



On 25th March, 2021, the Indo-Bangladesh border villagers of Cooch Behar district under the banner of 'Amra Simantabasi' (We, the bordering populace), organized a peaceful mass demonstration and protest in front of the District Magistrate's office Cooch Behar. About 500 people from different border villages of Cooch Behar participated in the demonstration and later submitted a deputation on their issues to the District Magistrate.

The district of Cooch Behar shares around 550 kilometers of international border with Bangladesh and the residents living in these areas are regularly subjected to torture, extra-judicial killings, severe insult and molestation, illegitimate restrictions whimsically imposed by the Border Security Force (BSF) on agricultural activities and fishing and so on. Millions of hectares of cultivable land are situated beyond the fencing and unprotected from Bangladeshi intruders as the BSF is posted inside the villages and not in the actual border. For no particular reason, section 144 of CrPC is issued in the border villages throughout the year, even in normal situational circumstances, despite the Supreme Court's judgment against the practice (Anuradha Bhasin Vs Union of India, Writ Petition (Civil) No. 1031 of 2019), due to which, the villagers live under severe distress.



The Secretary of 'Amra Simantabasi', Cooch Behar district committee, Mr. Hazrat Ali along with other members of the committee raised these issues in the demonstration before the Cooch Behar District Magistrate's office and submitted a memorandum to the District Magistrate with the following demands:

- Continuously perpetuating Section 144 of the CrPC in border areas, which is illegal according to the Supreme Court's judgment, should be withdrawn with immediate effect.
- BSF should be posted in the actual borders and not inside villages.
- Illegitimate restrictions imposed by the BSF on agricultural activities and fishing activities in the border should be stopped immediately
- Incidents of extra-judicial killings and torture by the BSF should be brought under justice and safety and security of the villagers should be ensured.
- According to the Ministry of External Affairs of the Government of India, the states of Nepal, Bhutan and Bangladesh are friendly countries. But in two other countries except Bangladesh, there are no such allegations of killing, torture and restrictions. Why there are such differences in the case of Bangladesh and not the other friendly countries?
- Border Area Development Programme (BADP) fund should be utilized in the border areas for development purpose and not elsewhere
- Educational, health, electricity, drinking water and other infrastructural facilities in border areas are insufficient.

The District Magistrate's office however didn't receive the memorandum citing the reason that Model Code of Conduct for West Bengal Assembly Election is in place due to which, the office cannot receive deputations. Hence, the 'Amra Simantabasi' committee decided to submit the deputation through registered post.



Enclave demands: Promises not kept



On 13 January 2021, members of Amra Chitmoholbasi along with MASUM held a mass demonstration in front of the Office of the District Magistrate, Cooch Behar regarding the concerns of erstwhile enclave dwellers. More than a thousand people from different enclaves participated in the demonstration. Mr. Kirity Roy, Secretary, MASUM Mr. Dipyaman Adhikary, Assistant Secretary, MASUM, Mr. Bijendra Nath Burman, representative from Falnapur erstwhile enclave, Mr. Manik Adhikary, representative from Kuchlibari erstwhile enclave, Mr. Madan Mohan Roy, representative from Paschim Bakalir Chara erstwhile enclave and Ms. Monica Burman, representative from Karala erstwhile enclave, met with the Additional District Magistrate to discuss the three most prominent demands of the agitation.

These demands were: 1. Official recognition of the citizenship rights of enclave dwellers and protection from the implications of the CAA 2019 2. Land documents for the residents who own land in the erstwhile enclaves 3. Employment opportunities/ 100 day work guarantee, especially for the youth of the erstwhile enclaves 4. Proper rehabilitation for people residing in settlement camps.

The ADM listened to the concerns and gave the following answers:

1. For citizenship rights, it was said that the names of enclave dwellers are already listed in the National Population Register (NPR). It was also said that the District Magistrate's office shall consider writing to the Ministry of Home Affairs to issue a gazette notification assuring the rights of citizenship to erstwhile enclave dwellers.

2. For land documents, it was said that they shall be finalized in the month of February. If this is not done, an agitation shall again be held in March 2021.

3. For employment opportunities, it was said that people eligible for/wanting work should give deputations to their respective Block Development Offices and the matter would be taken care of.

4. For rehabilitation for people residing in settlement camps, it was said that the flats for permanent settlement have been made and any problems related to construction are being taken care of. Our suggestion regarding providing lands to people for practicing agriculture was noted by the ADM for further consultations.

The meeting was then adjourned after which Mr. Kirity Roy addressed the people and assured them that further steps shall be taken if these demands are not met by the end of February. The people appeared hopeful towards the end of the meeting and look forward to the anticipated resolution to their problems.

After successful mass deputation at office of the District Magistrate, Cooch Behar, the officer of enclave cell asked 30 days of time to fulfill the demands of erstwhile enclave dwellers. Also on 24th December 2020 MASUM lodged one RTI (Right to Information) application to District Magistrate of Cooch Behar to know the present status of citizenship and land rights of the erstwhile enclave dwellers. In reply District Magistrate of Cooch Behar requested the secretary of MASUM to visit at the office of Enclave cell on 22nd February 2021. On that day the secretary of MASUM sit with the officer of enclave cell. In the meeting the officer of enclave cell did not place the proper answer which was asked also the district authority was failed to full fill the demands of erstwhile enclave dwellers after 30 days. So now the erstwhile enclave dwellers have decided to not participate in the coming assembly election. So on the same day "Amra Chitmoholbasi" organized one press conference and declared it.



Quarterly Legal Activities Report

Supreme Court of India

Two cases of MASUM are pending before the Supreme Court in India. – (i) Md. Nur Islam vs. Union of India (WP 141(criminal) of 2015) generally known as Felani Khatun case and (ii) Banglar Manabadhikar Suraksha Mancha vs. Union of India where we prayed an order declaring section 46 and 47 of BSF Act, 1968 is ultra virus to Article 14 and 21 of the Constitution of India.

On 14.02.2020 Felani Khatun case was called for hearing before the Bench of Justice D.Y. Chandrachud and Justice K.M. Joseph and upon hearing both the parties, the double Bench ordered to list up the matter on a non miscellaneous day for final disposal on 18.03.2020. On 18.03.2020 the matter was withdrawn from the cause list of the Supreme Court of India as on reviewing the advisory issued by the Government of India and in view of the opinion of the public health experts including medical professionals and also considering the public safety for Covid 19 virus, the authority of the Supreme Court of India had decided that the functioning of the courts restricted to urgent matters. Till time next date of hearing was not fixed by the concerned authority.



Calcutta High Court



Filing new cases:

On 15.03.2021 with the legal assistance of MASUM Ms. Shila Khatun Bibi @ Shila Bibi @ Shila Bewa filed one writ petition before the High Court at Calcutta seeking for compensation amount of Rs. 3 lakhs which was ordered by the Criminal Injuries Compensation Board, Murshidabad in the year 2019 but after that District Legal Services Authority, Murshidabad several times sought for various documents regarding the extrajudicial execution of his husband Imajuddin Mondal and unnecessary harassed the widow of the deceased without providing any compensation amount. The case was registered as Writ Petition Application number 7589 of 2021 dated 15.03.2021.

Mr. Goutam Mondal was a victim of custodial death in the custody of Domkol Police Station. Ms. Dipali Mondal widow of the deceased victim with the legal assistance of MASUM filed one writ petition in the nature of Mandamus for directing the state authorities and investigating agency to take immediate and necessary steps for causing investigation against the perpetrators. The case was registered as Writ Petition Application number 7829 of 2021 dated 17.03.2021.

Pending cases at High Court at Calcutta

Till the first quarter of 2021, MASUM has been providing legal support to 8 victims in their cases to the Calcutta High Court, out of which 2 new cases are filed during this time period.

Till date the following cases are pending in the Calcutta High Court:

Case Number	Case Title	Date of Filing	Last Order
WP 19785(w)/2018	Rajjak Seikh vs. State of West Bengal & others	25.09.2018	On 11.03.2019 court directed to list the matter after 6 weeks
WP 1971(w)/2019	Nazrul Islam Dafadar vs. State of West Bengal & others	05.01.2019	On 15.02.2019 ordered to file affidavit from the Govt. side within two weeks.
WP 1970(w)/2019	Ranjit Das vs. State of West Bengal & others	05.01.2019	On 07.02.2019 ordered to file affidavit from the Govt. side within two weeks
WP 22359(w)/2019	Nur Islam Sahajee vs. Union of India & others	27.11.2019	On 02.03.2020 the matter was listed up but the judge was absent
WP 1758(w)/2020	Panchanan Mondal vs. State of West Bengal & others	27.01.2020	On 02.03.2020 the matter was listed up but the judge was absent
CRR 783/2020	Reba Bewa vs. State of West Bengal & others	28.02.2020	On 04.03.2020 the Court ordered to file an section 5 application for limitation before admission of the case within 16.03.2020
CRAN 1/2020	Reba Bewa vs. State of West Bengal & others	12.03.2020	Not listed the matter
WP 11905(w)/2020	Rima Bewa vs. State of West Bengal & others	24.12.2020	Listing the matter on 05.01.2021
WP 7589(w)/2021	Shila Bewa vs. State of West Bengal & others	15.03.2021	Directed the State Legal Services Authority, West Bengal and District Magistrate, Murshidabad to take expeditious steps in this regard.
WP 7829(w)/2021	Dipali Mondal vs. State of West Bengal & others	17.03.2021	Not listed the matter

Quarterly Legal Activities Report

Activities in High Court at Calcutta

For MASUM's continuous intervention Chief Justice of Calcutta High Court listed up our one long pending Habeus Corpus case. Suchitra Mondal vs. State of West Bengal & others [WPA 19791 of 2018] was listed up on 25.01.2021 before the Double Bench of Chief Justice and Arijit Banerjee. On 25.01.2021 in the case of enforced disappearance of Sukumar Mondal, the said double bench disposed off the matter on perusing the report submitted by Deputy SP, CID, West Bengal and directed to the jurisdictional Criminal Court to take appropriate action in this respect.

On 05.01.2021 Rima Bewa vs. Union of India & others [WPA 11905/2020] was listed up before the bench of Sabyasachi Bhattacharya but as the matter was in the type of new motion item number 135, the case was not come for hearing on the said date. Next date of hearing is not fixed up.

For our continuous intervention another long pending Habeus Corpus case Rajjak Sk vs. State of West Bengal & others [WPA 19785 of 2018] was listed up on 23.03.2021 before the Double Bench of Chief Justice and Justice Shampa Sarkar. But on the said day the matter was in item number 27 in the cause list therefore the matter was not put up before the Bench in time. The next date was fixed on 05.04.2021 as item number 103.

Sub-divisional Courts



New case filing:

On 06.01.2021 with the assistance of MASUM Mr. Anarul Biswas, victim of BSF torture filed one complaint case before the court of Additional Chief Judicial Magistrate Court, Berhampore bearing CR case number 9/2021. Next date was fixed on 16.04.2021 for the appearance of the victim.

On 02.02.2021 with the assistance of MASUM Ms. Poli Bibi, victim of BSF torture filed one complaint case before the court of Additional Chief Judicial Magistrate Court, Berhampore. On 04.02.2021 after hearing the Magistrate rejected the petition on the ground that the names of the accused are unknown.

Filing Bail petitions:

False and concocted case was lodged against the victim by the Jalangi police officials under section 120A (Criminal conspiracy)/186 (Obstructing public servant in discharge of public duty)/189 (Threat of injury to public servant)/504 (Intentional insult with intent to breach of peace) and 505(1) (Public mischief) of Indian Penal Code. In respect of Jalangi Police Station case number 95/2019 in connection with GR number 465/2019 Mr. Asir Mondal was arrested by the police officials of Jalangi Police Station on 24.02.2020. On 25.02.2020 Mr. Asir Mondal was granted bail from the Chief Judicial Magistrate's Court, Berhampore Court with bond of one thousand rupees.

In the same case warrant was issued against Mr. Rintu Mondal. On 26.02.2020 an anticipatory bail application was moved before the Session Judges Court, Berhampore and he was granted anticipatory bail on condition of providing bond of one thousand rupees.

Activities in Sub Divisional Court:

In January, February and March 2021 we provide total legal support to 29 victims in their complaint cases and 15 victims in their defense cases in the Lalbag Court, Murshidabad and 2 victims in their complaint cases and 2 victims in their defense cases in the Berhampore Court, Murshidabad.

In the Court of Basirhat we provide total legal support to 10 victims in their complaint cases and 11 victims in their defense cases during first three months of 2021.

In the Court of Dinhata we provide total 2 victims in their complaint cases and 1 victim in his defense cases and in Mekhliganj Court we provide legal support to one victim in their complaint case.

During first quarter of 2021, MASUM has provided a total 87 units of legal support to these victims in the Lalbag Court in Murshidabad and Basirhat Court in North 24 Pargana district in both prosecution and defense cases.

Month	Number of Prosecution Cases		Number of Defense Cases	
	ACJM, Lalbag	ACJM, Basirhat	ACJM, Lalbag	ACJM, Basirhat
January	11	2	13	4
February	10	6	13	4
March	10	7	14	3

Quarterly Legal Activities Report

Achievements

On 19.03.2021 in the case of Shila Khatun Bibi @ Shila Bibi@ Shila Bewa vs. State of West Bengal & others [WPA 7589/2021] High Court at Calcutta directed the State Legal Services Authority, West Bengal and District Magistrate, Murshidabad to take expeditious steps to dispose of the petitioner's case as to her entitlement to receive compensation under the West Bengal Victim Compensation Scheme, 2017. On the same day i.e. 19.03.2021 the widow of the victim Ms. Shila Bewa received monetary compensation amount of Rs.3 lakhs from the State Legal Services Authority, West Bengal under Victim Compensation Scheme, 2017.

On 09.02.2021 the Additional Chief Judicial Magistrate, Mekhliganj ordered to submit the police report as early as possible in respect of complaint case filed by Mr. Fuleet Burman.



Challenges



Till date the regular proceedings of the Courts have not been started. Legal activities are slowly moving. Courts including High Court and Supreme Court did not list up our pending cases in their cause list.

We are also experienced that victims do not follow up on their cases regularly; even they do not even contact the lawyers after filing their complaint.

Our Observation:

On March 25, 2021 Supreme Court laid guidelines for appointment of ad hoc judges to reduce the pendency of old cases. By saying "Pendency has gone out control", the Apex Court has sought responses from all the High Courts in country on plea filed by NGO Lok Prahari. The condition of the Higher Judiciary is declining day by day. Victims knocking the doors of the temple of justice, but the all doors and windows are closed in the name of pandemic letting people suffer. From March, 2020 to November, 2020 proceedings of higher and lower judiciary were totally stopped after which Courts resumed operation but the normal working have still not been started yet. We have many cases pending before the Supreme Court and High Court at Calcutta, but the Courts have entertained those matter and list up in the cause list as those matters are in the stage of contesting. Even the officials of the Courts are not sure when these matters will be listed up.

Such facts cause inordinate delay in further proceeding of the cases- an example of justice delayed, justice denied and make the victims frustrated. This also establishes the fact that the judiciary is usually adept at handling the flow of fresh cases but fail when it comes to reducing the pendency or backlog of cases. Judiciary is an institution of last resort and every case requires a defined and acceptable case life so that justice is not hurried and buried. MASUM's experience shows that the present judicial system especially the higher and subordinate courts have been unable to meet the demands of justice curbing the delay in disposal of cases.

Quarterly synopsis of Complaints

Illegal Detention: In the last quarter, we have documented incidents of illegal detention of 65 Bangladeshi women and 19 children. All these people were found to be extremely poor and vulnerable and many were trafficked to India by local touts with the promise of better employment opportunities. They were apprehended under the Foreigners Act and sent to correctional homes for 14 days. But even after the lapse of this time period, many women continued to be illegally detained. Children were separated from their mothers and housed in shelter homes. We sent complaints regarding each of these instances to the National Human Rights Commission and other authorities.



Torture by Border Security Force Personnel: We documented 7 incidents of brutal torture, vandalism and assault on Muslims, Dalits, women and children by the personnel of BSF in the last quarter. Ainal Sheikh, a young Muslim man was severely tortured in the BSF camp using horrific methods. He was also threatened against reporting the incident. Ahammad Ali was also brutally beaten by BSF after they disallowed him from using pesticides on his crops. In an unprecedented attack on a minor girl, the BSF Company commandant, entered the house of Mousumi Khatun, assaulted and sexually harassed her. Even the police refused to register the complaint. The houses of Hamida Bibi and Shajahan Sheikh were vandalized by BSF under the pretext of looking for smuggled goods. Jesmina Mondal was tortured and molested by BSF personnel while she was returning to her house in the evening.

Government Negligence: During the past quarter, we documented four incidents where jobs under MGNREGA were not provided to villagers. The villagers are extremely poor and face many restrictions by the BSF while practicing agriculture, which is often their only source of livelihood. During the pandemic, it was especially difficult for people to find work since they could not migrate to other places. Apart from this, we documented one incident where caste certificates were not provided to villagers.



Violence against Women: We documented two incidents of violence against women in the past quarter. While incidents of torture on women often overlap with this violence, these cases are specifically targeted towards women. In one case, a girl was raped and murdered by a man and the police refused to register a complaint against him. Instead, the police illegally detained, harassed and tortured the girl's mother and sister and intimidated them into withdrawing their complaint. In another incident, a Bangladeshi minor girl was trafficked to India for forced labour and sexual activities. The girl was abused by the family she was trafficked to and is currently stuck in a shelter home in Kanpur, India.

Firing by Border Security Force Personnel: Mr. Asidual Mia of Satkorpatti village under the jurisdiction of Mathabhanga Police Station was brutally tortured and shot by BSF personnel attached with Boromoricha Border Out Post of 'E' company, 100 Battalion. The victim was not properly treated and the duty doctors at the hospital did not remove the bullet from his rib for a long time.



Extra Judicial Killing: An incident of brutal torture and killing of a poor marginalized Muslim minor boy from 25 Tista Payasthi village, Cooch Behar district by the perpetrator Border Security Force personnel attached with Battalion no. 143 of Bhojlipara BSF Border Out Post was also recorded. The victim Samser Pramanik was severely beaten up by 5/6 on duty BSF personnel with bamboo sticks and rifle butts. Later, when he became unconscious from the beating, he was shot in the chest.

Our Observations:

Our complaints regarding the incidents of illegal detention of Bangladeshi nationals seldom receive a response from the National Human Rights Commission and other state authorities. This is in spite of the fact that the advisory issued by the Ministry of Home Affairs vide memorandum no. 14051/14/2011-F.VI is being consistently violated by the State. The advisory was issued in the interest of furthering cooperation between South Asian nation states after a conference of SAARC, and it provides that Bangladeshi women and children who are found to be victims of trafficking would not face prosecution and would be repatriated to Bangladesh at the earliest. In the interest of protecting human rights, it is imperative that the State recognizes the vulnerability of the people who are illegally detained, often beyond the lapse of their sentence. International instruments such as the Cartagena Declaration 1984 recognize the relevance of poverty and economic decline in the forced migration of people, often making them refugees. The Bangladeshi women who are apprehended without valid documents in India, are also forced to migrate from their country due to the lack of basic provisions that every individual is entitled to under international human rights law. Therefore, it is important that they receive adequate protection rather than prosecution from the State.

Since the nationwide lockdown induced by the pandemic, we have recorded an increase in the number of incidents of torture by the Border Security Force personnel. This is because restrictions faced by the people on their movement and livelihood have become further exacerbated during this time. Apart from this, there is a continuous imposition of Section 144 of the Criminal Procedure Code in border areas, in complete violation of the judgement of the Supreme Court of India in *Anuradha Bhasin vs Union of India*. In a few incidents of torture, people have been tortured merely on account of being outside after 6pm in the evening. Torture has also been perpetrated on the mere suspicion of smuggling. The victims of torture are overwhelmingly Muslims or Dalits, therefore it is also extremely probable that violence is inflicted on them as a result of discrimination. The police and medical practitioners often ally with the BSF to shroud acts of torture and participate in threatening and intimidating victims into withdrawing complaints against BSF. This pattern has also been observed in incidents of extrajudicial killings, enforced disappearances and arbitrary firing by BSF. It is this entrenched impunity in our criminal justice system which MASUM is trying to address in order to ensure justice for the victims of torture.

During the pandemic, we also observed the indiscriminate suffering caused to migrant labourers, farmers and people living near the Indo-Bangladesh border. We found that many of their problems could be resolved through the proper implementation of social security schemes that have already been formulated. For instance, there are a significant number of people who possess job cards but have not received 100 days of work under the Mahatma Gandhi National Rural Employment Guarantee Act. In addition, many border villages do not have proper roads, clean drinking water, sanitation and access to education and health. These problems do not receive adequate attention from the law even though economic and social rights and intricately tied to civil and political rights. It is important to address these issues for the holistic growth of our country and the welfare of our citizens.



In memory of Prof. Christof Heyns

We are deeply saddened by the unanticipated demise of Prof Christof Heyns, a spirited human rights defender and academic. Prof Heyns was a professor of human rights law and the director of the Institute for International and Comparative Law in Africa at the University of Pretoria. He served as the UN Special Rapporteur on extrajudicial, summary or arbitrary executions from 2010 to 2016. In this capacity, he visited Kolkata in March 2012 and interviewed many family members of victims of extrajudicial executions by the Border Security Force and Police. This visit was organized by the Working Group on Human Rights in collaboration with MASUM and other civil society members. Prof Heyns staunchly advocated for equal rights and justice and was a pivotal figure in advancing the rights of the marginalized sections of society. We extend our deepest condolences to his family and friends and hope that he rests in peace.

Activities at a glance



A village level meeting with the villagers of Purba Mashaldanga erstwhile enclave



Psychological counselor, Mr. Mohit Ranadip treating a victim in a medical camp at North 24 Parganas district



Erstwhile enclave dwellers at a protest in front of the Cooch Behar district administrative building



Cooch Behar border villagers at a protest in front of the district administrative building



Dr. Champak Banerjee treating a victim in a medical camp at Cooch Behar



'Amra Chitmahalbasi' members from Cooch Behar meets the press and refuses to participate in the upcoming elections